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中华人民共和国国家知识产权局

100084 北京市海淀区清华大学学研大厦 B 座 903 号 北京林达刘知识产权代理事务所 刘新宇	发文日
申请号: 2004800107624 	
申请人: 佳能株式会社	
发明名称: 无线通信系统、以及无线通信装置和控制方法	

第 二 次 审 查 意 见 通 知 书

1. ☒ 审查员已收到申请人于 2008 年 3 月 21 日提交的意见陈述书, 在此基础上审查员对上述专利申请继续进行实质审查。

☐ 根据国家知识产权局专利复审委员会于 年 月 日作出的复审决定, 审查员对上述专利申请继续实质审查。

☐

2. ☐ 申请人于 年 月 日提交的修改文件, 不符合专利法实施细则第 51 条第 3 款的规定。

3. 继续审查是针对下述申请文件进行的:

☐ 上述意见陈述书中所附的经修改的申请文件。

☒ 前次审查意见通知书所针对的申请文件以及上述意见陈述书中所附的经修改的申请文件替换页。

☐ 前次审查意见通知书所针对的申请文件。

☐ 上述复审决定所确定的申请文件。

☐

4. ☐ 本通知书未引用新的对比文件。

☒ 本通知书引用下述对比文件(其编号续前, 并在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期(或抵触申请的申请日)
1	《数字通信》2002 年第 10 期	2002 年
	芒果:《蓝牙手机实用攻略》	

5. 审查的结论性意见:

☐ 关于说明书:

☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。

☐ 说明书不符合专利法第 26 条第 3 款的规定。

☐ 说明书的修改不符合专利法第 33 条的规定。

☐ 说明书的撰写不符合专利法实施细则第 18 条的规定。

☐

☒ 关于权利要求书:

☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。

☒ 权利要求 1, 2, 4, 8, 9, 17 不具备专利法第 22 条第 3 款规定的创造性。

☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。

☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。

☐ 权利要求 不符合专利法第 26 条第 4 款的规定。

☐ 权利要求 不符合专利法第 31 条第 1 款的规定。

☐ 权利要求 的修改不符合专利法第 33 条的规定。

☐ 权利要求 不符合专利法实施细则第 2 条第 1 款的规定。



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申请号 2004800107624

- ☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
☐ 权利要求 不符合专利法实施细则第 20 条的规定。
☐ 权利要求 不符合专利法实施细则第 21 条的规定。
☐ 权利要求 不符合专利法实施细则第 22 条的规定。
☐ 权利要求 不符合专利法实施细则第 23 条的规定。

☐ 分案的申请不符合专利法实施细则第 43 条第 1 款的规定。
上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

7. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的贰个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
(2) 申请人对其申请的修改应符合专利法第 33 条和实施细则第 51 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 3 页, 并附有下列附件:

- ☒ 引用的对比文件的复印件共 1 份 6 页。

审查员: 黄颖夫 (3233)



审查部门 通信审查部

2008 年 4 月 10 日

21303
2008.7



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

第二次审查意见通知书正文

申请号：2004800107624

申请人于2008年3月21日提交了意见陈述书和经过修改的申请文件，审查员在阅读了上述文件后，对本申请继续进行审查，再次提出如下审查意见。

1. 权利要求1所要求保护的技术方案不具备专利法第二十二条第三款规定的创造性。对比文件1（《数字通信》2002年第10期，芒果：蓝牙手机实用攻略）公开了一种移动通信系统，并具体公开了以下的技术特征，该系统包括手机（相当于第一无线通信装置）和笔记本电脑（相当于第二无线通信装置），打开手机和笔记本电脑上的蓝牙端口（相当于在第一和第二无线通信装置上发出建立无线通信信道的用户指令），3分钟内没有蓝牙连接时手机将自动关闭内部的蓝牙模块（即相当于在预定时间内建立无线通信），手机搜寻到笔记本电脑，进行配对（相当于建立通信信道），然后进行数据的交换（参见该对比文件的“连接过程”部分）。为了建立通信信道，手机和笔记本电脑必然相应地具有通信建立装置，也就是说，这一技术特征被对比文件1隐含公开了。该权利要求所要求保护的技术方案与该对比文件所公开的技术内容相比，其区别在于，第一和第二无线通信装置均具有判定用于建立通信信道的用户指令的判定装置，第二无线通信装置建立无线通信也需在预定的时间之内。然而使用判定装置来判断是否接收到了某种用户指令，以及在预定的一段时间内允许进行某项操作，超时则拒绝进行操作，这是本领域的公知常识。在该对比文件的基础上结合上述公知常识以获得该权利要求所要求保护的技术方案，对所属技术领域技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具备突出的实质性特点和显著的进步，因而不具备创造性。

2. 权利要求2所要求保护的技术方案不具备专利法第二十二条第三款规定的创造性。对比文件1公开了一种蓝牙手机（相当于无线通信装置），并具体公开了以下的技术特征，打开手机和笔记本电脑上的蓝牙端口（相当于发出建立无线通信信道的用户指令），3分钟内没有蓝牙连接时手机将自动关闭内部的蓝牙模块（即相当于在预定时间内建立无线通信），手机搜寻到笔记本电脑（相当于其它无线通信装置），进行配对（相当于建立通信信道），然后进行数据的交换（参见该对比文件的“连接过程”部

分)。为了建立通信信道,手机必然相应地具有通信建立装置,并且为了进行数据通信,手机也必然具有通信装置,也就是说,这些技术特征被对比文件1隐含公开了。该权利要求所要求保护的技术方案与该对比文件所公开的技术内容相比,其区别在于,该无线通信装置具有判定用于建立通信信道的用户指令的判定装置。然而使用判定装置来判断是否接收到了某种用户指令,这是本领域的公知常识。在该对比文件的基础上结合上述公知常识以获得该权利要求所要求保护的技术方案,对所属技术领域的技术人员来说是显而易见的,因此该权利要求所要求保护的技术方案不具备突出的实质性特点和显著的进步,因而不具备创造性。

3. 权利要求4是权利要求2的从属权利要求,其限定部分的附加技术特征为,所述无线通信装置包括图像传感装置,该其它无线通信装置包括用于打印所传感的图像的装置、或用于存储所传感的图像的存储装置。但是在手机中包含有摄像头这类的图像传感装置以及在笔记本电脑中包含有存储图像的存储装置,这些都是所述技术领域的公知常识,这些公知常识的使用对本领域的技术人员来说是显而易见的,在其引用的权利要求2不具备创造性的情况下,该从属权利要求不具备专利法第二十二条第三款规定的创造性。

4. 权利要求8是权利要求2的从属权利要求,其限定部分附加技术特征为,还包括:选择装置,用于选择要发送的信息,其中,当所述选择装置在由所述通信建立装置建立无线通信信道时已选择了要发送的信息时,所述通信装置执行所选择的信息的发送处理。但是在手机发送数据之前,由一个选择装置来选择要发送的数据,选择之后进行发送,这是所述技术领域中的公知常识,这些公知常识的使用对本领域的技术人员来说是显而易见的,在其引用的权利要求2不具备创造性的情况下,该从属权利要求不具备专利法第二十二条第三款规定的创造性。

5. 权利要求9是权利要求2的从属权利要求,其限定部分附加技术特征为,还包括:搜索装置,用于当所述判定装置判定检测到无线通信信道建立指令时,根据多个通信参数来搜索通信对方,以及所述通信建立装置建立与由所述搜索装置发现的通信对方的无线通信信道。对比文件1中公开了手机进行搜索,与搜索到的笔记本电脑建立通信,进行数据交换(参见对比文件1的“连接过程”部分),且其在该对比文件中所起的作用与其在本发明中所起的作用相同。而具体是根据几个通信参数以及根据哪些通

信参数进行搜索，这是本领域的技术人员可以根据需要自行设定的，属于公知常识。因此，在对比文件1的基础上结合上述公知常识以获得该权利要求所要求保护的技术方案，对所属技术领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具备突出的实质性特点和显著的进步，因而不具备创造性。

6. 权利要求17所要求保护的技术方案不具备专利法第二十二条第三款规定的创造性。对比文件1公开了一种手机与笔记本电脑通过蓝牙通信的方法，并具体公开了以下的技术特征，打开手机（相当于无线通信装置）和笔记本电脑（相当于其它无线通信装置）上的蓝牙端口（相当于发出建立无线通信信道的用户指令），3分钟内没有蓝牙连接时手机将自动关闭内部的蓝牙模块（即相当于在预定时间内建立无线通信），手机搜寻到笔记本电脑，进行配对（相当于建立通信信道），然后进行数据的交换（参见该对比文件的“连接过程”部分）。该权利要求所要求保护的技术方案与该对比文件所公开的技术内容相比，其区别在于具有判定用于建立通信信道的用户指令的判定步骤。然而使用判定步骤来判断是否接收到了某种用户指令，这是本领域的公知常识。在该对比文件的基础上结合上述公知常识以获得该权利要求所要求保护的技术方案，对所属技术领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具备突出的实质性特点和显著的进步，因而不具备创造性。

基于上述原因，该申请目前不能被授予专利权，申请人应当在本通知书指定的答复期限内根据本通知书提出的问题对该申请进行修改。申请人对申请文件的修改应当符合专利法第33条的规定，不得超出原说明书和权利要求书记载的范围。另外，申请人在提交修改文本时应当提交修改底稿及替换页并确保上述两部分在内容上的一致性。

审查员：黄颖夫
代码：3233



The State Intellectual Property Office of P.R. China

Room 903, Block B, R & D Plaza, Tsinghua University, Haidian District, Beijing 100084, P.R.China LINDA LIU & PARTNERS Xinyu LIU	Date of Issuing: May 9, 2008
Application No: 2004800107624	
Applicant: CANON KABUSHIKI KAISHA	
Title of Invention: WIRELESS COMMUNICATION SYSTEM, AND WIRELESS COMMUNICATION DEVICE AND CONTROL METHOD	

NOTIFICATION OF THE SECOND OFFICE ACTION

1. ☒ Examiner has received the opinion statement submitted on March 21, 2008, and has continued processing the substantive examination on the basis of it for the above-mentioned application.
- ☐ According to the decision of reexamination made by the Patent Reexamination Board under the State Intellectual Property Office, examiner continued processing substantive examination.
- ☐ _____
2. ☐ The amended documents submitted by the applicant on _____ could not be accepted by examiner since it is in conformity with paragraph 3 of rule 51 of the Implementing Regulations. The applicant should submitting the amended documents complied with the requirement before the duration requested by this notification.
3. Continuing examination is processed aimed at following application documents:
- ☐ The amended documents enclosed by above opinion statement.
- ☒ The application documents aimed at the preceding office action and replacement pages of the amended application document enclosed by above opinion statement.
- ☐ The application documents aimed at the preceding office action.
- ☐ The application documents confirmed by the above reexamination decision.
- ☐ _____
4. ☐ There are no new references cited in this notification.
- ☒ This notification cites following references (the codes of the references follow the preceding codes, and it shall be kept using in the process of examination)
- | Code | File No./ Name: | Publication Date (or filing date of conflict application) : |
|------|----------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1 | Mango. Guide to Bluetooth Mobile Phone,
Digital Communication, Issue 10, 2002 | 2002 |
5. Conclusive opinion of examination:
- ☐ Regarding the Description
- ☐ The content of the application belongs to the scope of Article 5 of the China Patent Law which can not be granted.
- ☐ The description is in conformity with the provisions of Paragraph 3 of Article 26 of the China Patent Law.
- ☐ The amendments to the description are in conformity with the provisions of Article 33 of the China Patent Law.
- ☐ The presentation manner of the Description is in conformity with Rule 18 of the Implementing

Regulations of the China Patent Law.

☒ Regarding the Claims

- ☐ Claims _____ do not possess the novelty under Paragraph 2 of Article 22 of the China Patent Law.
- ☒ Claims 1, 2, 4, 8, 9, 17 do not possess the inventiveness under Paragraph 3 of Article 22 of the China Patent Law.
- ☐ Claims _____ do not possess the practical applicability under Paragraph 4 of Article 22 of the China Patent Law.
- ☐ Claims _____ fall in the scope of Article 25 of the China Patent Law which can not be granted.
- ☐ Claims _____ do not meet the requirement of Paragraph 4 of Article 26 of the China Patent Law.
- ☐ Claims _____ do not meet the requirement of Paragraph 1 of Article 31 of the China Patent Law.
- ☐ The amendments to the claims _____ do not meet the requirement of Article 33 of the China Patent Law.
- ☐ Claims _____ do not meet the definition of Invention under Paragraph 1 of Article 2 of the Implementing Regulations of the China Patent Law.
- ☐ Claims _____ do not meet the requirement of Paragraph 1 of Article 13 of the Implementing Regulations of the China Patent Law.
- ☐ Claims _____ do not meet the requirements of Rule 20 of the Implementing Regulations of the China Patent Law.
- ☐ Claims _____ do not meet the requirements of Rule 21 of the Implementing Regulations of the China Patent Law.
- ☐ Claims _____ do not meet the requirements of Rule 22 of the Implementing Regulations of the China Patent Law.
- ☐ Claims _____ do not meet the requirements of Rule 23 of the Implementing Regulations of the China Patent Law.
- ☐ _____
- ☐ The divisional application does not meet the requirement of Paragraph 1 of Article 43 of the Implementing Regulations of the China Patent Law.
- Please refer to the text of the notification in detail for the above.

6. Based on the above conclusive opinion, the examiner points out that:

- ☐ Applicant should amend the application documents according to the requirements of the text of the notification.
- ☒ Applicant should state the reason that the application may be granted in his observation and amend the application documents according to the teaching of the text of the notification, otherwise, the application may not be granted.
- ☐ No any substantive contents to be granted are presented in the application. If the applicant does not submit his observation or his observation is not reasonable, the application will be rejected.
- ☐ _____

7. Following items shall come to applicant's attention:

- (1) According to Article 37 of the China Patent Law, the applicant should submit his observation within 2 months from the date he receives the notification. If, without any justified reason, the time limit for making a response is not meet, the application will be deemed to be withdrawn.
- (2) The amendments to the application documents should meet the requirement of Article 33 of the

Chinese Patent Law and Rule 51 of the Implementing Regulation. The amendment documents should be submitted in two copies and the amending manner should comply with the relevant regulations of the Examination Guide.

(3) The observation statement and / or the amended documents should be mailed or submitted directly to the Receiving Section of the China Patent Office, otherwise, the submitted documents have no legal effect.

(4) The applicant and / or attorney may not meet the examiner if an appointment has not been made.

8. The text of this notification consists of 3 page(s), including the following annexes:

☒ 6 page(s) of 1 copy(ies) of the cited reference(s).

☐ _____

Examiner: Haofu HUANG (3233) (seal)

April 10, 2008

Communications Examination Department

The Second Office Action

Application Number: 2004800107624

The applicant filed a response and the amended application documents on March 21, 2008. After reading the above documents, the examiner continues to examine the present application and raises again the following opinions:

1. The technical solution of claim 1 does not possess inventiveness as prescribed by Article 22.3 of the Chinese Patent Law. Reference 1 (Mango. Guide to Bluetooth Mobile Phone, *Digital Communication*, Issue 10, 2002) discloses a mobile communication system, and discloses the following technical features in detail: the system comprises a mobile phone (corresponding to a first wireless communication device) and a portable computer (corresponding to a second wireless communication device); turn on the Bluetooth ports of the mobile phone and the portable computer (corresponding to sending out a user's instruction for establishing a wireless communication channel on the first and second wireless communication devices), and if there is no Bluetooth connection within 3 minutes, the mobile phone will turn off the inside Bluetooth module automatically (corresponding to establishing a wireless communication within a predetermined time period); if a portable computer is searched, the mobile phone matches with it (corresponding to establishing a communication channel), and then performs the data-exchange (see the part of "connection process" in Reference 1). In order to establish a communication channel, the mobile phone and the portable computer necessarily have a communication establishment means correspondingly.. That is, such technical feature is impliedly disclosed by Reference 1. As compared with the technical content disclosed by Reference 1, the distinction of the technical solution of claim 1 lies in that: both the first and second wireless communication device have a determination means for determining a user's instruction for establishing a communication channel, and the second wireless communication device shall establish a wireless communication within a predetermined time period as well. Nevertheless, a determination means is used to determine whether a certain user's instruction is received, and some item of operation is allowed to be performed within a predetermined time period and forbidden to be performed if the time period is exceeded; all of these are common sense in this field. It is obvious for one skilled in the art to obtain the technical solution of claim 1 by combining the above common sense with Reference 1. Therefore, the technical solution of claim 1 possesses neither prominent substantive features nor notable progress, and thus does not possess inventiveness.

2. The technical solution of claim 2 does not possess inventiveness as prescribed by Article 22.3 of the Chinese Patent Law. Reference 1 discloses a Bluetooth mobile phone (corresponding to a wireless communication device), and discloses the following technical features in detail: turn on the Bluetooth ports of the mobile phone and the portable computer (corresponding to sending out a user's instruction for establishing a wireless communication channel), and if there is no Bluetooth connection within 3 minutes, the mobile phone will turn off the inside Bluetooth module automatically (corresponding to establishing a wireless communication within a predetermined time period); if a portable computer (corresponding to another wireless communication device) is searched, the mobile phone matches with it (corresponding to establishing a communication channel), and then performs the data-exchange (see the part of "connection process" in Reference 1). In order to establish a communication channel, the mobile phone necessarily has a communication establishment means correspondingly, and the mobile phone necessarily has a communication means so as to perform data communication. That is, such technical feature is impliedly disclosed by Reference 1. As compared with the technical content disclosed by Reference 1, the distinction of the technical solution of claim 2 lies in that: the wireless communication device have a determination means for determining a user's instruction for establishing a wireless communication channel. Nevertheless, it is a common sense in this field that a determination means is used to determine whether a certain user's instruction is received. It is obvious for one skilled in the art to obtain the technical solution of claim 2 by combining the above common sense with Reference 1. Therefore, the technical solution of claim 2 possesses neither prominent substantive features nor notable progress, and thus does not possess inventiveness.

3. Claim 4 is a dependent claim of claim 2. The additional technical features of its defining portion are: said wireless communication device comprises an image sensing device, and the other wireless communication device comprises a device for printing a sensed image or a storage device for storing the sensed image. Nevertheless, it is common sense in said technical field that a mobile phone comprises an image sensing device like a camera and that a portable computer comprises a storage device for storing images; moreover, the usage of these common sense is obvious for one skilled in the art. As claim 2 to which claim 4 refers

does not possess inventiveness, dependent claim 4 does not possess inventiveness as prescribed by Article 22.3 of the Chinese Patent Law.

4. Claim 8 is a dependent claim of claim 2. The additional technical features of its defining portion are: further comprising: selection means for selecting information to be transmitted, and wherein when said selection means has already selected the information to be transmitted upon establishing the wireless communication channel by said communication establishment means, said communication means executed a transmission process of the selected information. Nevertheless, the data to be transmitted is selected by a selection means before said data is transmitted by the mobile phone, and transmission is performed after the selection, and it is common sense in said technical field. The usage of the common sense is obvious for one skilled in the art. Where claim 2 to which claim 8 refers does not possess inventiveness, dependent claim 8 does not possess inventiveness as prescribed by Article 22.3 of the Chinese Patent Law.

5. Claim 9 is a dependent claim of claim 2. The additional technical features of its defining portion are: further comprising: search means for, when said determination means determines that the wireless communication channel establishment instruction is detected, searching for a communication partner in accordance with a plurality of communication parameters, and said communication establishment means establishes the wireless communication channel with the communication partner found by said search means. Reference 1 discloses that the mobile phone searches for a portable computer, establishes communication with the found portable computer and performs the data-exchange (see the part of "connection process" in Reference 1); moreover, they play the same role in Reference 1 as they do in the present invention. That the search is performed based on how many communication parameters or which communication parameters is determined by one skilled in the art themselves according to the requirements, and belongs to the common sense. Therefore, it is obvious for one skilled in the art to obtain the technical solution of claim 9 by combining the above common sense with Reference 1. Therefore, the technical solution of claim 9 possesses neither prominent substantive features nor notable progress, and thus does not possess inventiveness.

6. The technical solution of claim 17 does not possess inventiveness as prescribed by Article 22.3 of the Chinese Patent Law. Reference 1 discloses a method that a mobile phone communicates with a portable computer through Bluetooth, and discloses the following technical features in detail: turn on the Bluetooth ports of the mobile phone (corresponding to a wireless communication device) and the portable computer (corresponding to another wireless communication device) (corresponding to sending out a user's instruction for establishing a wireless communication channel), and if there is no Bluetooth connection within 3 minutes, the mobile phone will turn off the inside Bluetooth module automatically (corresponding to establishing a wireless communication within a predetermined time period); if a portable computer is searched, the mobile phone matches with it (corresponding to establishing a communication channel), and then performs the data-exchanges (see the part of "connection process" in Reference 1). As compared with the technical content disclosed by Reference 1, the distinction of the technical solution of claim 17 lies in that: comprising a determination step of determining a user's instruction for establishing a wireless communication channel. Nevertheless, it is a common sense in this field that a determination step is used to determine whether a certain user's instruction is received. It is obvious for one skilled in the art to obtain the technical solution of claim 17 by combining the above common sense with Reference 1. Therefore, the technical solution of claim 17 possesses neither prominent substantive features nor notable progress, and thus does not possess inventiveness.

Owing to the above reasons, the present application cannot be granted patent right so far. The application should amend the present application based on the problems raised in this Office Action within the time limit specified in this Office Action. The amendments to the application document should be in compliance with Article 33 of the Chinese Patent Law, that is, they should not go beyond the scope of the original description and claims. In addition, when filing the amended text, the applicant should submit the amended manuscript and the replacement sheets and ensure the consistency of the contents in the above two parts.

Examiner: Haofu HUANG

Code: 3233